

KELLOGG, HUBER, HANSEN, TODD & EVANS, P.L.L.C.

SUMNER SQUARE  
1615 M STREET, N.W.  
SUITE 400

WASHINGTON, D.C. 20036-3209

(202) 326-7900

FACSIMILE:  
(202) 326-7999

July 17, 2003

RECEIVED

JUL 17 2003

Federal Communications Commission  
Office of the Secretary

VIA HAND DELIVERY

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Room CY-B-402  
445 12th Street, S.W.  
Washington, D.C. 20554

03-167

Re: Joint Application by SBC Communications Inc., et al., for Provision of In-Region, InterLATA Services in Illinois, Indiana, Ohio, and Wisconsin

Dear Ms. Dortch:

Accompanying this letter is the Joint Application by SBC Communications Inc., et al., for Provision of In-Region, InterLATA Services in Illinois, Indiana, Ohio, and Wisconsin. In addition to the Joint Application, we are filing a motion to adjust the page limit of the brief.

Pursuant to the Commission's filing requirements, the following are being provided with this letter:

- Two CD-ROM sets containing the entire Joint Application, in electronic form, redacted for public inspection. The Joint Application includes a brief in support of the Joint Application, one appendix of affidavits and supporting exhibits, and twenty-three appendices containing additional supporting documentation.
- One original and one copy of the Joint Application in paper form, redacted for public inspection.
- One original of only those portions of the Joint Application that contain confidential information. This includes portions of Appendix A (Affidavits), as well as certain information contained within the state records. A copy of this letter accompanies the confidential portions of the Joint Application. The material designated as confidential includes information relating to specific carriers' operations as well as cost and other

No. of Copies rec'd 4  
List ABCDE

**REDACTED – For Public Inspection**

Marlene H. Dortch

July 17, 2003

Page 2

information that is proprietary to the BOC applicants. This information is not disclosed to the public, and disclosure would cause substantial harm. SBC accordingly requests that the Commission treat these portions of the Joint Application as confidential.

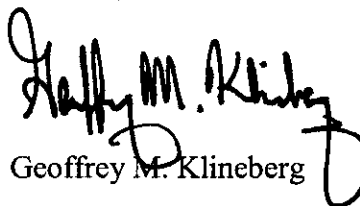
SBC is also providing a copy of the Joint Application, in paper and electronic form, redacted for public inspection, to Qualex, the Commission's copy contractor. In addition, we are providing the Wireline Competition Bureau with 40 copies of the brief and 20 copies of Appendix A in paper form, as well as 20 CD-ROM versions of the entire Joint Application in electronic form. All of this material is redacted for public inspection. We are also submitting to the Bureau one copy in paper form of those portions of the Joint Application that contain confidential information.

All inquiries relating to access to confidential information submitted by SBC in support of the Joint Application (subject to the terms of any applicable protective order) should be addressed to:

Kevin Walker  
Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C.  
1615 M Street, N.W., Suite 400  
Washington, D.C. 20036  
kwalker@khhte.com  
(202) 367-7820 (direct)  
(202) 326-7999 (fax)

Finally, please date-stamp and return the extra copy of this letter. If you have any questions regarding the materials provided with this letter, please contact me at (202) 326-7928. Thank you for your kind assistance in this matter.

Sincerely,



Geoffrey M. Klineberg

Enclosures

**REDACTED – For Public Inspection**

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Joint Application by SBC Communications Inc.,  
Illinois Bell Telephone Company, Indiana Bell  
Telephone Company Incorporated, The Ohio Bell  
Telephone Company, Wisconsin Bell, Inc., and  
Southwestern Bell Communications Services, Inc.  
for Provision of In-Region, InterLATA Services  
in Illinois, Indiana, Ohio, and Wisconsin

WC Docket No. 03-\_\_\_\_\_

**RECEIVED**

JUL 17 2003

Federal Communications Commission  
Office of the Secretary

To: The Commission

**BRIEF IN SUPPORT OF APPLICATION BY SBC FOR  
PROVISION OF IN-REGION, INTERLATA SERVICES IN  
ILLINOIS, INDIANA, OHIO, AND WISCONSIN**

JAMES D. ELLIS  
PAUL K. MANCINI  
MARTIN E. GRAMBOW  
JOHN T. LENAHAN  
KELLY M. MURRAY  
ROBERT J. GRYZMALA  
RANDALL JOHNSON  
TRAVIS M. DODD  
JOHN D. MASON  
175 E. Houston  
San Antonio, Texas 78205  
(210) 351-3410

*Counsel for SBC Communications Inc*

MICHAEL K. KELLOGG  
GEOFFREY M. KLINEBERG  
LEO R. TSAO  
KELLOGG, HUBER, HANSEN,  
TODD & EVANS, P.L.L.C.  
1615 M Street, N.W.  
Suite 400  
Washington, D.C. 20036  
(202) 326-7900

*Counsel for SBC Communications Inc.,  
Illinois Bell Telephone Company,  
and Southwestern Bell  
Communications Services, Inc.*

July 17, 2003

[NAMES OF ADDITIONAL COUNSEL APPEAR ON THE FOLLOWING PAGE]

LOUISE SUNDERLAND  
MARK ORTLIEB

225 West Randolph St., Floor 25  
Chicago, IL 60606  
(312) 727-6705

*Counsel for Illinois Bell Telephone Company*

MARY RYAN FENLON  
JON F. KELLY

150 E. Gay Street, Room 4-A  
Columbus, Ohio 43215  
(614) 223-3302

*Counsel for The Ohio Bell Telephone  
Company*

BONNIE K. SIMMONS  
240 North Meridian Street  
Room 1831  
Indianapolis, IN 46204  
(317) 265-3676

*Counsel for Indiana Bell Telephone Company  
Incorporated*

PETER J. BUTLER  
722 North Broadway, Floor 14  
Milwaukee, WI 53202  
(414) 270-4555

*Counsel for Wisconsin Bell, Inc.*

## **EXECUTIVE SUMMARY**

With this Joint Application, SBC seeks authority to provide long-distance telecommunications services to the citizens of Illinois, Indiana, Ohio, and Wisconsin. This Joint Application marks the culmination of years of collaborative work by the applicant telephone companies – Illinois Bell, Indiana Bell, Ohio Bell, and Wisconsin Bell – their respective state commissions – the Illinois Corporation Commission (“ICC”), the Indiana Utility Regulatory Commission (“IURC”), the Public Utility Commission of Ohio (“PUCO”), the Public Service Commission of Wisconsin (“PSCW”) – and many local carriers to establish the framework for local competition in Illinois, Indiana, Ohio, and Wisconsin.

On May 14, 2003, the ICC issued a 926-page order (including over 3600 paragraphs) in which it painstakingly reviewed every issue under section 271(c) and found not only that Illinois Bell has satisfied Track A and the competitive checklist but that granting section 271 relief would be consistent with the public interest.

On July 2, 2003, the IURC issued an order indicating that it was prepared to support Indiana Bell’s application, subject to the implementation of the same compliance plans that SBC has already agreed to in the other SBC Midwest states.

On June 26, 2003, the PUCO issued a 252-page order that exhaustively considered each of the requirements under Track A and the competitive checklist, concluding that the evidence demonstrates that the local telecommunications market in Ohio is irreversibly open to competition and that SBC Ohio makes its network available to competitors on a nondiscriminatory basis.

The PSCW issued two separate orders – a “Phase I” order on July 1, 2003, in which it concluded that SBC Wisconsin had satisfied Track A and each of the fourteen checklist items,

and a "Phase II" order on July 7, 2003, in which it concluded that SBC Wisconsin had satisfied the checklist with respect to its operation support systems, the pricing of unbundled network elements, and the performance remedy plan.

These conclusions by the Illinois, Indiana, Ohio, and Wisconsin commissions reflect several undeniable developments:

- Illinois Bell, Indiana Bell, Ohio Bell, and Wisconsin Bell have each satisfied the 14 statutory checklist requirements for opening their local market to competition, thereby ensuring that competitive local exchange carriers ("CLECs") have access to all the facilities and services they need to compete in their regions.
- SBC has put in place state-of-the-art, independently tested operations support systems ("OSS") pursuant to which the SBC Midwest operating companies successfully process, on a monthly basis, hundreds of thousands of CLEC orders.
- The applicant telephone companies' performance met or surpassed the relevant standards for 90 percent of all performance measurements in at least two of the last three months for which data are available (March – May 2003).

As a direct result of these efforts, the level of CLEC entry in the applicant states is remarkable. According to the most conservative estimates, CLECs are serving at least 29 percent of the total access lines in Illinois Bell's serving area (amounting to approximately 2.3 million lines). In Indiana, they are serving at least 15 percent of the total access lines in Indiana Bell's serving area (totaling at least 393,000 lines). In Ohio, the numbers are higher, with CLECs serving at least 885,000 access lines (or at least 20 percent of the total). In Wisconsin, the total number is 633,000 access lines served by CLECs, representing approximately 25 percent of the total.

Throughout SBC's entire Midwest region, CLECs are serving the bulk of these lines over their own facilities, either exclusively or in combination with thousands of unbundled loops they have leased from the BOC applicants. By any measure, the level of local competition in Illinois,

Indiana, Ohio, and Wisconsin is substantial and certainly sufficient for demonstrating compliance with Track A.

This vibrant competition provides the lens through which the Commission should view the issues raised by this Joint Application. CLECs can and do compete effectively in the applicant states, and they are proving it every day. In previous applications, the Department of Justice has stressed that actual, broad-based entry in a state through each of the entry paths contemplated by Congress will provide invaluable evidence supporting a strong presumption that the BOC's markets have been opened. That invaluable evidence is abundant in this case, and Illinois Bell, Indiana Bell, Ohio Bell, and Wisconsin Bell have earned the strong presumption that the Department of Justice has properly identified.

To order the facilities and services that the BOC applicants make available under the 1996 Act, CLECs in all four states can choose from a wide selection of electronic (and manual) operations support systems. These include both industry-standard systems and customized systems that have been developed by SBC and offered to fit CLECs' business plans. CLECs have used these systems to order services and facilities identified in the competitive checklist – in many cases, hundreds of thousands of times.

The applicant telephone companies' outstanding performance in fulfilling these orders is verifiable, on an ongoing basis, through the performance-monitoring programs established in each state. Under those programs, the BOC applicants provide CLECs and state and federal regulators monthly reports that cover all aspects of the service they provide their CLEC customers. The accuracy of the performance measurements has been verified by the independent auditing firm Ernst & Young. In addition, BearingPoint is continuing its testing of the accuracy and reliability of the same performance measurements already verified by Ernst & Young, and

the BOC applicants have committed to working with BearingPoint as long as their state commissions believe it to be necessary.

In addition to the applicant telephone companies' outstanding commercial performance, this Commission can rely on separate, comprehensive, independent third-party OSS tests in each state and overseen by each state commission and conducted by BearingPoint modeled after the tests conducted in New York and Florida. To make the test as realistic as possible, the applicant telephone companies received "blind" service requests from a "pseudo-CLEC," which the companies provisioned in the "real world." After nearly a year and a half of cooperative planning and testing, with the participation of AT&T, WorldCom, and other CLECs at every stage, the separate, third-party tests of essentially the same systems confirmed that the applicant telephone companies' OSS provide CLECs nondiscriminatory access and can handle foreseeable CLEC demand.

The access that the BOC applicants provide CLECs to advanced services in their states is not only proven by commercial volumes and the OSS tests, but is also ensured by the existence of the structurally separate advanced services affiliate. As the Commission envisioned, because the operating companies' advanced services are provided exclusively through that structurally separate affiliate, CLECs and regulators know – even apart from the performance data demonstrating the fact – that CLECs receive nondiscriminatory access to the facilities and services they need to provide advanced services.

The applicant telephone companies have devoted enormous resources to establish a wholesale infrastructure in their states for providing excellent service to its CLEC customers, and they are committed to continuing to provide such service. In addition, they have implemented state commission approved performance remedy plans equivalent to those endorsed in prior



Commission decisions. Under this plan, the potential liability for each BOC is calculated as 36 percent of annual net return. Even if the BOC applicants were inclined to “backslide” (and they are not), such enormous liability, together with the Commissions’ powers to rescind or limit interLATA authority and to impose other penalties for violations of legal duties, provides more than ample protection to CLECs.

In every other state where section 271 relief has been granted, SBC’s long-distance entry has stimulated both long-distance and local competition. Consumers in the applicant states will likely save hundreds of millions of dollars if this Joint Application is granted. Indeed, the average consumer in states where section 271 relief has been granted has received a savings of 8 to 11 percent on the monthly interLATA bill as compared to those states where BOC entry had not yet occurred. In addition, CLECs have a substantially higher cumulative share of the local exchange market in states where BOCs have entered the long-distance market.

As Chairman Powell has noted, “[w]e see a correlation between the process for approving applications and growing robustness in the markets.” This Joint Application demonstrates in detail the steps that Illinois Bell, Indiana Bell, Ohio Bell, and Wisconsin Bell, their respective state commission and CLECs have taken to create open local markets. This Commission should approve this Joint Application and extend the benefits that section 271 can bring to the consumers of Illinois, Indiana, Ohio, and Wisconsin.

## TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	i
GLOSSARY OF 271 ORDERS .....	xiv
INTRODUCTION .....	1
A. Illinois .....	3
B. Indiana.....	6
C. Ohio.....	7
D. Wisconsin.....	11
DISCUSSION.....	14
I. SBC HAS SATISFIED THE REQUIREMENTS OF TRACK A IN EACH OF THE FOUR APPLICANT STATES .....	14
A. Illinois .....	15
B. Indiana.....	16
C. Ohio.....	17
D. Wisconsin.....	18
II. SBC HAS ADOPTED COMPREHENSIVE AND RELIABLE STATE-APPROVED PERFORMANCE MEASUREMENTS .....	19
A. Third-Party Audit.....	20
1. Metrics Data Integrity Test (PMR4) .....	23
2. Metrics Calculations and Reporting (PMR5) .....	24
B. Other Indicia of Reliability .....	29
III. SBC SATISFIES ALL REQUIREMENTS OF THE COMPETITIVE CHECKLIST IN EACH OF THE FOUR APPLICANT STATES .....	32
A. Checklist Item 1: Interconnection.....	32
1. Interconnection Trunking.....	33

2.	Collocation.....	34
B.	Checklist Item 2: Access to UNEs.....	39
1.	Access to UNEs Generally.....	40
2.	UNE Combinations.....	40
3.	Line Sharing.....	43
4.	Intellectual Property.....	43
5.	Pricing.....	44
a.	Illinois .....	45
b.	Indiana.....	49
c.	Ohio.....	51
d.	Wisconsin.....	53
6.	Nondiscriminatory Access to OSS.....	54
a.	Pre-ordering .....	58
b.	Ordering and Provisioning.....	63
c.	Maintenance and Repair .....	72
d.	OSS Support.....	74
e.	Change Management .....	75
f.	Billing .....	81
C.	Checklist Item 3: Poles, Ducts, Conduits, and Rights-of-Way.....	88
D.	Checklist Item 4: Unbundled Local Loops .....	91
1.	Nondiscriminatory Access to Unbundled Loops Used for Advanced Services .....	92
a.	Pre-Ordering and Ordering xDSL-Capable Loops .....	93
b.	Line Sharing.....	95
c.	Line Splitting .....	96
d.	Performance in Provisioning xDSL-Capable Loops.....	97

e.	Performance in Provisioning BRI ISDN Loops.....	99
2.	Nondiscriminatory Access to Stand-Alone Loops.....	100
a.	DS1 Loop Performance.....	100
b.	The NID and Subloop Unbundling.....	101
c.	Basic Loop Performance.....	102
d.	Coordinated and Frame Due Time Conversions ("Hot Cuts") ...	103
E.	Checklist Item 5: Unbundled Local Transport.....	104
F.	Checklist Item 6: Unbundled Local Switching.....	107
G.	Checklist Item 7: Nondiscriminatory Access to 911, E911, Directory Assistance, and Operator Call Completion Services .....	108
H.	Checklist Item 8: White Pages Directory Listings.....	112
I.	Checklist Item 9: Nondiscriminatory Access to Telephone Numbers.....	113
J.	Checklist Item 10: Nondiscriminatory Access to Databases and Associated Signaling Necessary for Call Routing and Completion.....	114
K.	Checklist Item 11: Number Portability .....	115
L.	Checklist Item 12: Local Dialing Parity .....	117
M.	Checklist Item 13: Reciprocal Compensation.....	118
N.	Checklist Item 14: Resale .....	120
IV.	<b>SBC'S ENTRY INTO THE INTERLATA SERVICES MARKETS WILL PROMOTE COMPETITION AND FURTHER THE PUBLIC INTEREST .....</b>	<b>122</b>
A.	Consumers Clearly Benefit from Bell Company Entry into the In-Region, InterLATA Market.....	124
B.	Each of the BOC Applicants Is Subject to a Comprehensive Performance Remedy Plan .....	130
1.	Illinois .....	131
2.	Indiana.....	134
3.	Ohio.....	135
4.	Wisconsin.....	136

V. SBC WILL PROVIDE INTERLATA SERVICES IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 272.....	138
CONCLUSION.....	145

## ATTACHMENTS

Attachment 1:	Required Statements
Attachment 2:	Certifications
Attachment 3:	Status of Federal Court Challenges Under 47 U.S.C. § 252(e)(6)
Attachment 4:	Detailed Index of Appendices (Separately Bound)
Appendix A:	Affidavits
Tab 1.	Scott J. Alexander (Illinois Wholesale Policy Issues)
Tab 2.	Scott J. Alexander (Indiana Wholesale Policy Issues)
Tab 3.	Scott J. Alexander (Ohio Wholesale Policy Issues)
Tab 4.	Scott J. Alexander (Wisconsin Wholesale Policy Issues)
Tab 5.	Justin W. Brown (Local Operations Center/Local Service Center)
Tab 6.	Justin W. Brown/Mark J. Cottrell/Michael E. Flynn (Wholesale Billing)
Tab 7.	Justin W. Brown/John J. Muhs (Hot Cuts)
Tab 8.	Jolynn B. Butler (Indiana State Proceedings/Pricing)
Tab 9.	Joe Carrisalez (Long Distance Section 272 Compliance)

- Tab 10. Carol A. Chapman  
(Advanced Services/Line Sharing/Line Splitting)
- Tab 11. Mark J. Cottrell/Beth Lawson  
(OSS)
- Tab 12. Kent A. Currie  
(Ohio Costs)
- Tab 13. William C. Deere  
(Illinois Network Issues)
- Tab 14. William C. Deere  
(Indiana Network Issues)
- Tab 15. William C. Deere  
(Ohio Network Issues)
- Tab 16. William C. Deere  
(Wisconsin Network Issues)
- Tab 17. Timothy Dominak  
(Accounting Safeguards)
- Tab 18. James D. Ehr  
(Illinois Performance Measures)
- Tab 19. James D. Ehr  
(Indiana Performance Measures)
- Tab 20. James D. Ehr  
(Ohio Performance Measures)
- Tab 21. James D. Ehr  
(Wisconsin Performance Measures)
- Tab 22. James D. Ehr/Salvatore T. Fioretti  
(Third Party Performance Evaluations)
- Tab 23. John S. Habeeb  
(Structural Separation of Advanced Services)
- Tab 24. Deborah O. Heritage  
(Illinois Track A)

- Tab 25. Deborah O. Heritage  
(Indiana Track A)
- Tab 26. Deborah O. Heritage  
(Ohio Track A)
- Tab 27. Deborah O. Heritage  
(Wisconsin Track A)
- Tab 28. Brian Horst  
(Additional Ernst & Young Billing Verifications)
- Tab 29. Rhonda J. Johnson  
(Illinois State Proceedings)
- Tab 30. Robben Kniffen-Rusu  
(Access to White Pages Directory Listings)
- Tab 31. Thomas J. Makarewicz  
(Indiana Costs)
- Tab 32. Daniel R. McKenzie  
(Ohio State Proceedings/Pricing)
- Tab 33. John J. Muhs  
(Network Operations)
- Tab 34. Christopher P. Nations  
(Operator Services/Directory Assistance)
- Tab 35. Barbara A. Smith  
(Illinois Costs)
- Tab 36. Barbara A. Smith  
(Wisconsin Costs)
- Tab 37. Eric D. Smith  
(Number Portability and Number Administration)
- Tab 38. Marcia J. Stanek  
(Access to Poles, Ducts, Conduits, and Rights-of-Way)
- Tab 39. Bernard E. Valentine  
(E911/911)

Tab 40. Scott T. VanderSanden  
(Wisconsin State Proceedings/Pricing)

Tab 41. W. Karl Wardin  
(Illinois Pricing)

Tab 42. Linda G. Yohe  
(Non-Accounting Safeguards)

Appendix B-IL: Selected Interconnection Agreements

Appendix B-IN: Selected Interconnection Agreements

Appendix B-OH: Selected Interconnection Agreements

Appendix B-WI: Selected Interconnection Agreements

Appendix C-IL: Selected Portions of the Record of the ICC, Docket No. 01-0662 (271 Proceeding)

Appendix C-IN: Selected Portions of the Record of the IURC, Cause No. 41657 (271 Proceeding)

Appendix C-OH: Selected Portions of the Record of the PUCO, Case No. 00-942-TP-COI (271 Proceeding)

Appendix C-WI: Selected Portions of the Record of the PSCW, Docket No. 6720-TI-170 (271 Proceeding)

Appendix D-IL: Selected Portions of the Record of the ICC, Docket No. 00-0700 (ULS-ST Proceeding)

Appendix D-IN: Selected Portions of the Record of the IURC, Cause Nos. 40611 & 40611-S1 (UNE Proceedings)

Appendix D-OH: Selected Portions of the Record of the PUCO, Case No. 96-922-TP-UNC (TELRIC Proceeding)

Appendix D-WI: Selected Portions of the Record of the PSCW, Docket No. 6720-TI-161 (UNE Proceeding)

Appendix E-IL: Selected Portions of the Record of the ICC, Docket No. 00-0592 (OSS Proceeding)



Appendix E-OH:	Selected Portions of the Record of the PUCO, Case No. 00-1188-TP-ARB (Recent AT&T Arbitration Proceeding)
Appendix E-WI:	Selected Data Request Responses
Appendix F-OH:	Selected Portions of the Record of the PUCO, Case No. 96-752-TP-ARB (AT&T Arbitration Proceeding)
Appendix G-OH:	Selected Portions of the Record of the PUCO, Case No. 01-1319-TP-ARB (MCImetro Arbitration Proceeding)
Appendix H:	SBC Illinois, Indiana, Ohio, and Wisconsin CLEC Accessible Letters (CLECIL, CLECIN, CLECOH, and CLECWI)
Appendix I:	SBC Midwest Region CLEC Accessible Letters (CLECAM)
Appendix J:	SBC 13-State Region CLEC Accessible Letters (CLECALL)
Appendix K:	SBC Midwest Region CLEC OSS Accessible Letters (CLECAMS)
Appendix L:	SBC 13-State Region CLEC OSS Accessible Letters (CLECALLS)
Appendix M:	Additional Selected Documents

## GLOSSARY OF 271 ORDERS

<u>Arkansas/Missouri Order</u>	<u>Joint Application by SBC Communications Inc., et al. Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Arkansas and Missouri</u> , Memorandum Opinion and Order, 16 FCC Rcd 20719 (2001), <u>aff'd</u> , <u>AT&amp;T Corp. v. FCC</u> , No. 01-1511, 2002 WL 31558095 (D.C. Cir. Nov. 18, 2002) ( <u>per curiam</u> )
<u>BellSouth Five-State Order</u>	<u>Joint Application by BellSouth Corporation, et al., for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina</u> , Memorandum Opinion and Order, 17 FCC Rcd 17595 (2002)
<u>California Order</u>	<u>Application by SBC Communications Inc., et al. for Authorization to Provide In-Region, InterLATA Services in California</u> , Memorandum Opinion and Order, 17 FCC Rcd 29650 (2002)
<u>Georgia/Louisiana Order</u>	<u>Joint Application by BellSouth Corp., et al., for Provision of In-Region, InterLATA Services In Georgia and Louisiana</u> , Memorandum Opinion and Order, 17 FCC Rcd 9018 (2002)
<u>Kansas/Oklahoma Order</u>	<u>Joint Application by SBC Communications Inc., et al., for Provision of In-Region, InterLATA Services in Kansas and Oklahoma</u> , Memorandum Opinion and Order, 16 FCC Rcd 6237 (2001), <u>aff'd in part and remanded</u> , <u>Sprint Communications Co. v. FCC</u> , 274 F.3d 549 (D.C. Cir. 2001)
<u>Second Louisiana Order</u>	<u>Application of BellSouth Corp., et al., for Provision of In-Region, InterLATA Services in Louisiana</u> , Memorandum Opinion and Order, 13 FCC Rcd 20599 (1998)

<u>Massachusetts Order</u>	<u>Application of Verizon New England Inc., et al., For Authorization to Provide In-Region, InterLATA Services in Massachusetts</u> , Memorandum Opinion and Order, 16 FCC Rcd 8988 (2001), <u>aff'd in part, dismissed in part, remanded in part</u> , <u>WorldCom, Inc. v. FCC</u> , 308 F.3d 1 (D.C. Cir. 2002)
<u>Michigan Order</u>	<u>Application of Michigan Bell Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Michigan</u> , Memorandum Opinion and Order, 12 FCC Rcd 20543 (1997)
<u>New Jersey Order</u>	<u>Application by Verizon New Jersey Inc., et al., for Authorization To Provide In-Region, InterLATA Services in New Jersey</u> , Memorandum Opinion and Order, 17 FCC Rcd 12275 (2002)
<u>New York Order</u>	<u>Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York</u> , Memorandum Opinion and Order, 15 FCC Rcd 3953 (1999), <u>aff'd</u> , <u>AT&amp;T Corp. v. FCC</u> , 220 F.3d 607 (D.C. Cir. 2000)
<u>Pennsylvania Order</u>	<u>Application of Verizon Pennsylvania Inc., et al. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania</u> , Memorandum Opinion and Order, 16 FCC Rcd 17419 (2001), <u>aff'd</u> , <u>Z-Tel Communications, Inc. v. FCC</u> , No. 01-1461, 2003 WL 21495165 (D.C. Cir. July 1, 2003)
<u>South Carolina Order</u>	<u>Application of BellSouth Corp., et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In South Carolina</u> , Memorandum Opinion and Order, 13 FCC Rcd 539 (1997), <u>aff'd</u> , <u>BellSouth Corp. v. FCC</u> , 162 F.3d 678 (D.C. Cir. 1998)
<u>Texas Order</u>	<u>Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas</u> , Memorandum Opinion and Order, 15 FCC Rcd 18354 (2000), <u>appeal dismissed</u> , <u>AT&amp;T Corp. v. FCC</u> , No. 00-1295 (D.C. Cir. Mar. 1, 2001)

Vermont Order

Application by Verizon New England Inc., et al., for  
Authorization To Provide In-Region, InterLATA  
Services in Vermont, Memorandum Opinion and  
Order, 17 FCC Rcd 7625 (2002), appeal dismissed,  
AT&T Corp. v. FCC, No. 02-1152, 2002 WL  
31619058 (D.C. Cir. Nov. 19, 2002)

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Joint Application by SBC Communications Inc.,  
Illinois Bell Telephone Company, Indiana Bell  
Telephone Company Incorporated, The Ohio Bell  
Telephone Company, Wisconsin Bell, Inc., and  
Southwestern Bell Communications Services, Inc.  
for Provision of In-Region, InterLATA Services  
in Illinois, Indiana, Ohio, and Wisconsin

WC Docket No. 03-\_\_\_\_\_

To: The Commission

**BRIEF IN SUPPORT OF APPLICATION BY SBC FOR  
PROVISION OF IN-REGION, INTERLATA SERVICES IN  
ILLINOIS, INDIANA, OHIO, AND WISCONSIN**

---

**INTRODUCTION**

Pursuant to section 271(d)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("1996 Act" or "Act"), Pub. L. No. 104-104, § 151(a), 110 Stat. 56, 89, SBC Communications Inc. and its subsidiaries Illinois Bell Telephone Company ("Illinois Bell"), Indiana Bell Telephone Company Incorporated ("Indiana Bell"), The Ohio Bell Telephone Company ("Ohio Bell"), Wisconsin Bell, Inc. ("Wisconsin Bell"), and Southwestern Bell Communications Services, Inc. ("SBCS") – collectively "SBC" – seek authority to provide in-region, interLATA services (including services treated as such under 47 U.S.C. § 271(j)) in the states of Illinois, Indiana, Ohio, and Wisconsin.<sup>1</sup>

---

<sup>1</sup> This Brief refers to Illinois Bell, Indiana Bell, Ohio Bell, and Wisconsin Bell as both "the BOC applicants" and "the applicant telephone companies." This filing is, in fact, four

This Joint Application reflects years of work by Illinois Bell, Indiana Bell, Ohio Bell, Wisconsin Bell, the state commissions, and the CLEC community to follow the roadmap to competition that this Commission established in prior section 271 orders. They have worked together to ensure the development of effective local competition, to address the concerns identified in the various state proceedings, and to keep pace with continued evolution in technology and legal requirements. This Joint Application represents the culmination of those efforts.

The ICC, the IURC, the PUCO, and the PSCW took advantage of parallel collaborative proceedings in other states throughout the SBC and Midwest regions, and of the proceedings and conditions that led to approval of the SBC/Ameritech merger by the Commission and by other state commissions in the SBC Midwest region. Where collaborative sessions were held in one state in SBC's Midwest region, their results were imported into the others. For example, many operations support systems ("OSS") enhancements and operational process improvements were addressed in Wisconsin collaboratives (which included open participation by many of the same CLEC parties) and then applied in Illinois, Indiana, and Ohio. See VanderSanden Aff. ¶¶ 27-32 (App. A, Tab 40). Throughout this process, the state commissions compiled an exhaustive record of comments, pleadings, briefs, transcripts, and related materials.

---

separate applications for section 271 relief. The statute contemplates the possibility of a single application for more than one state, see 47 U.S.C. § 271(d)(1), and SBC's purpose in filing this "Joint Application" is to simplify the presentation of common issues and to permit both this Commission and interested parties to reduce unnecessary duplication of effort. The applications for section 271 relief in Illinois, Indiana, Ohio, and Wisconsin are independent of one another, and each should be reviewed separately and on its own terms. SBC will soon file with the FCC an application for authorization under 47 U.S.C. § 214 to provide international services originating in Illinois, Indiana, Ohio, and Wisconsin.

All four state commissions independently considered these section 271 applications through administrative processes that meet all four criteria for authoritativeness identified in prior Commission orders. See, e.g., New York Order ¶ 20; Texas Order ¶ 11. As described throughout this Joint Application, each state commission has assembled a record including:

- participation by all interested parties in years of proceedings relating to section 271;
- reliance on extensive third-party testing of SBC Midwest's systems, processes, and procedures, carried out under the auspices of their respective state commissions;
- the results of technical conferences, hearings, and workshops before the state commissions in which SBC, as well as the CLECs, worked through implementation issues; and
- comprehensive performance monitoring mechanisms, pursuant to which CLECs and state and federal regulators can obtain a clear picture of the quality of service that SBC is providing to its CLEC customers in each of the applicant states.

**A. Illinois**

On October 24, 2001, the ICC issued an order initiating a proceeding to investigate the status of Illinois Bell's compliance with section 271 of the Act, to hold hearings, and to develop a comprehensive factual record for purposes of its anticipated consultation with this Commission.<sup>2</sup> The ICC established two phases for the proceeding: Phase I would cover as much of the competitive checklist as possible with the results of the BearingPoint OSS test; and Phase II would cover all remaining OSS issues and other issues not addressed in Phase I.<sup>3</sup>

---

<sup>2</sup> See Order Initiating Investigation, Investigation Concerning Illinois Bell Telephone Company's Compliance with Section 271 of the Telecommunications Act of 1996, Docket No. 01-0662 (ICC Oct. 24, 2001) (App. C-IL, Tab 1).

<sup>3</sup> Id. at 3.

With respect to Phase I, Illinois Bell submitted its "Checklist Informational Filing" on November 20, 2001, providing drafts of the affidavits and brief for its section 271 filing.<sup>4</sup> The ICC extended intervenor status to 24 different CLECs and trade associations, and many of them participated actively throughout the proceedings. The ICC oversaw industry workshops in January 2002 to permit the parties to refine the issues to be addressed. The parties submitted pre-filed testimony addressing the issues identified in the workshops as well as other issues relating to Track A, the competitive checklist, and the public interest. An evidentiary hearing was held in June 2002 and early July, and the parties filed post-hearing briefs and reply briefs. The Administrative Law Judge ("ALJ") issued a Proposed Interim Order for Phase IA<sup>5</sup> on December 6, 2002. After further briefing, the ALJ issued the Phase I Interim Order on Investigation on February 6, 2003.<sup>6</sup>

With respect to the Phase II proceedings, BearingPoint submitted its interim report regarding its review of SBC Illinois's performance measurements on December 20, 2002.<sup>7</sup> On

---

<sup>4</sup> Phase I Checklist Filing of Ameritech Illinois, Investigation Concerning Illinois Bell Telephone Company's Compliance with Section 271 of the Telecommunications Act of 1996, Docket No. 01-0662 (ICC filed Nov. 20, 2001) (App. C-IL, Tab 3).

<sup>5</sup> Phase I was subsequently divided into Phase IA, which dealt with the checklist and Track A, and Phase IB, which addressed performance and remedy-plan issues. On January 16, 2003, the ALJ merged the Phase IB issues into the pending Phase II proceeding. See Administrative Law Judge's Ruling, Investigation Concerning Illinois Bell Telephone Company's Compliance with Section 271 of the Telecommunications Act of 1996, Docket No. 01-0662, at 4 (ICC Jan. 16, 2003) (App. C-IL, Tab 68).

<sup>6</sup> Phase I Interim Order on Investigation, Investigation Concerning Illinois Bell Telephone Company's Compliance with Section 271 of the Telecommunications Act of 1996, Docket No. 01-0662 (ICC Feb. 6, 2003) (App. C-IL, Tab 85).

<sup>7</sup> BearingPoint Illinois OSS Evaluation Project Report (Dec. 20, 2002) (App. M, Tab 111).



January 17, 2003, SBC Illinois submitted the results of the review carried out by Ernst & Young, LLP (“E&Y”).<sup>8</sup> Following the issuance of a procedural schedule, the ALJ presided over a series of workshops in February 2003, and the parties had the opportunity to question witnesses from BearingPoint and E&Y. The parties subsequently submitted affidavits, rebuttal affidavits, comments, reply comments, and briefs.

The ALJ issued a Proposed Final Order on April 8, 2003, incorporating both the Phase I and Phase II proceedings.<sup>9</sup> The parties then filed exceptions to which others subsequently replied. On May 13, 2003, the ICC issued a 926-page Final Order on Investigation, covering all of the areas addressed in the Interim Order, as well as the Phase II issues addressing the adequacy of SBC Illinois’s OSS, an evaluation of SBC Illinois’s actual performance, and a consideration of the compromise remedy plan.<sup>10</sup> After reviewing the massive record compiled in both Phases of its proceeding, the ICC concluded that “SBC Illinois satisfies Section 271(c)(1)(A) of the Telecommunications Act of 1996”; that SBC Illinois is in “sufficient and substantial compliance with checklist items (i) through (xiv)”; and that its “review of the public interest in all relevant particulars demonstrates that SBC Illinois’ requested authorization to

---

<sup>8</sup> Ernst & Young, Report of Independent Accountants (Jan. 17, 2003), Attachment O to Affidavit of James D. Ehr, Investigation Concerning Illinois Bell Telephone Company’s Compliance with Section 271 of the Telecommunications Act of 1996, Docket No. 01-0662 (ICC filed Jan. 17, 2003) (App. C-IN, Tab 69).

<sup>9</sup> Administrative Law Judge’s Proposed Final Order on Investigation, Investigation Concerning Illinois Bell Telephone Company’s Compliance with Section 271 of the Telecommunications Act of 1996, Docket No. 01-0662 (ICC Apr. 8, 2003) (App. C-IL, Tab 112).

<sup>10</sup> Order on Investigation, Investigation Concerning Illinois Bell Telephone Company’s Compliance with Section 271 of the Telecommunications Act of 1996, No. 01-0662 (ICC May 13, 2003) (“ICC Final Order”) (App. C-IL, Tab 135).